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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 10/038,433 | 01/04/2002 | Bernhard P. Weisshaar | TC00152 | 9482 |

23330 7590 07/25/2007

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| EXAMINER | |
|---|---|
| LEE, JOHN J | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2618 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 07/25/2007 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/038,433 | WEISSHAAR ET AL. | |
| | Examiner | Art Unit | |
| | JOHN J. LEE | 2618 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *07 May 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-30* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

### *Response to Arguments/Amendment*

1. Applicant's arguments/amendments received on May 07, 2007 have been carefully considered but they are not persuasive because the teaching of all the cited reference reads on all the rejected and amended claims as set forth in the pervious rejection. Therefore, the finality of this Office Action is deemed proper.

Contrary to the assertions at pages 9 - 11 of the Arguments, claims 1, 10, 11, 20, 21, and 30 are not patentable.

During examination, the USPTO must give claims their broadest reasonable interpretation.

Re claims 1, 10, 11, 20, 21, and 30: Applicant argues that the teaching of Eitzenberger (US 6,023,232) does not teach the claimed invention "a plurality of communication interfaces in **a wireless communication device** and **polling**, by a first application, at least one communication interface of said plurality of communication interfaces to determine whether said at least one communication interface has become available". However, The Examiner respectfully disagrees with Applicant's assertion that the Eitzenberger does not teach the claimed invention. Contrary to Applicant's assertion, the Examiner is of the opinion that the Eitzenberger teaches a plurality of interfaces (see Fig. 1 teaches a plurality of communication interfaces) in a wireless communication device (PDA, cellular phones, GPS receivers, central computer is installed in an automobile or truck (although computer installed in vehicle, if this computer communicates with network by wireless communication, the computer used to call

wireless device such that mobile laptop computer)) as see Fig. 1 and column 5, lines 21 – 47, regarding the claimed limitation. Also, the Eitzenberger teaches checking, by an application to determine whether the require device (a communication interface of the plurality of interfaces) is occupied at the moment and to which data network it is currently connected (said at least one communication interface has become available) see Fig. 1 and column 5, lines 48 – 65), regarding the claimed limitation. More specifically, the limitation "polling at least one communication interface to determine whether the at least one communication interface has become available" is same meaning as checking at least one communication interface (the connection of communication device) to determine whether the required device (the communication interface) is occupied at the moment and to which data network it is currently connected.

Applicant's attention is directed to the rejection below for the reasons as to why this limitation is not patentable.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1 – 30** are rejected under 35 U.S.C. 102(b) as being anticipated by Eitzenberger (US patent number 6,023,232).

Regarding **claim 1**, Eitzenberger discloses that a method of selecting a communication interface to transmit data in a wireless communication network (Fig. 1 and column 2, lines 30 – column 3, lines 36). Eitzenberger teaches that providing a plurality of communication interfaces in a wireless communication device (column 4, lines 39 – column 5, lines 20 and Fig. 1, where teaches various interfaces are used to connect a plurality communication devices (PDA, cellular telephone, mobile station) to central computer such as a controller area network, PCMCIA, IR interface). Eitzenberger teaches that polling, by a first application, at least one communication interface of said plurality of communication interfaces to determine whether said at least one communication interface has become available (Fig. 1, 2, column 4, lines 57 – column 5, lines 20, and column 5, lines 48 – 65, where teaches between the central computer takes over the data transmission channels associated with the interfaces and device are called upon flexibly to fulfill their inherent functions by an adaptive application control means central station checks to determine whether the required device is occupied at the moment and to which data network it is currently connected). Eitzenberger teaches that determining that said at least one communication interface of said plurality of communication interfaces has become available (Fig. 1, 2, column 4, lines 57 – column 5, lines 20, and column 5, lines 48 – 65, where teaches a check is performed to determine whether the required device is occupied at the moment and to which data network it is currently connected). Eitzenberger teaches that transmitting data associated with said first application on said at least one communication interface (Fig. 1, 2, column 4, lines 57 –

column 5, lines 20, and column 2, lines 53 – column 3, lines 22, where teaches transmitting the data channel associated with the determined interface to the device).

Regarding **claim 2**, Eitzenberger discloses that the step of providing a plurality of communication interfaces in said wireless communications device comprises providing a plurality of communication devices of a telemetric communication device (column 4, lines 39 – column 5, lines 20 and Fig. 1, where teaches communication device is mobile computer, cellular telephone, or GPS receiver).

Regarding **claim 3**, Eitzenberger discloses that the step of polling comprises periodically checking said at least one communication interface to determine whether said at least one communication interface has become available (Fig. 3, 4, column 6, lines 20 – 39, and column 7, lines 48 – column 8, lines 4, where teaches continuing updating the database with checking the interface for the device).

Regarding **claim 4**, Eitzenberger discloses that the step of polling comprises checking said at least one communication interface in response to a query by said first application (column 7, lines 33 – column 8, lines 17 and Fig. 5, where teaches being requested by another application).

Regarding **claim 5**, Eitzenberger discloses that determining that said wireless communication device is not transmitting data for another application (column 4, lines 66 – column 5, lines 65 and Fig. 1).

Regarding **claim 6**, Eitzenberger discloses that transmitting vehicle information to a server (column 6, lines 20 – 65 and Fig. 3).

Regarding **claim 7**, Eitzenberger discloses that polling at least one communication interface, which is able to transmit data, associated with a first application (Fig. 1, 2, column 4, lines 57 – column 5, lines 20, and column 5, lines 48 – 65).

Regarding **claim 8**, Eitzenberger discloses that receiving a query from a second application (column 7, lines 33 – column 8, lines 17 and Fig. 5).

Regarding **claim 9**, Eitzenberger discloses that receiving a request to transmit data on a second communication interface by said second application (column 7, lines 33 – column 8, lines 17 and Fig. 5).

Regarding **claim 10**, Eitzenberger discloses all the limitation, as discussed in claims 1 and 6. Furthermore, Eitzenberger further discloses that transmitting vehicle information on said at least one communication interface to a server (column 6, lines 20 – 65 and Fig. 3, where teaches transmitting vehicle information, position, time speed, to the server).

Regarding **claim 11**, Eitzenberger discloses all the limitation, as discussed in claims 1 and 10. Furthermore, Eitzenberger further discloses that transmitting vehicle data on said at least one communication interface (column 6, lines 20 – 65 and Fig. 3).

Regarding **claim 12**, Eitzenberger discloses all the limitation, as discussed in claims 2 and 10.

Regarding **claim 13**, Eitzenberger discloses all the limitation, as discussed in claims 3 and 10.

Regarding **claim 14**, Eitzenberger discloses all the limitation, as discussed in claims 5 and 10.

Regarding **claim 15**, Eitzenberger discloses all the limitation, as discussed in claims 6 and 10.

Regarding **claim 16**, Eitzenberger discloses all the limitation, as discussed in claims 4 and 10.

Regarding **claim 17**, Eitzenberger discloses all the limitation, as discussed in claims 8 and 10.

Regarding **claim 18**, Eitzenberger discloses all the limitation, as discussed in claims 9 and 10.

Regarding **claim 19**, Eitzenberger discloses that concurrently transmitting data associated with said second application on said second communication interface (column 7, lines 33 – column 8, lines 17 and Fig. 5).

Regarding **claim 20**, Eitzenberger discloses all the limitation, as discussed in claims 1 and 10.

Regarding **claim 21**, Eitzenberger discloses all the limitation, as discussed in claims 1 and 10. Furthermore, Eitzenberger further discloses that determining that said at least one communication interface of said plurality of communication interfaces (Fig. 1, 2, column 4, lines 57 – column 5, lines 20, and column 5, lines 48 – 65, where teaches a check is performed to determine whether the required device is occupied at the moment and to which data network it is currently connected) has the capacity to transmit at least a portion of a first block of data associated with a first application (Fig. 3 and column 6,

lines 21 – column 7, lines 15, where teaches the determined communication interface gateways portion is located first block of the application data). Eitzenberger teaches that and transmitting said at least a portion of a first block of data associated with said first application on said at least one communication interface (Fig. 1, 2, column 4, lines 57 – column 5, lines 20, and column 2, lines 53 – column 3, lines 22).

Regarding **claim 22**, Eitzenberger discloses all the limitation, as discussed in claims 1 and 2.

Regarding **claim 23**, Eitzenberger discloses all the limitation, as discussed in claims 1 and 3.

Regarding **claim 24**, Eitzenberger teaches that the wireless communication device is within range of said wireless communication network providing said at least one communication interface (Fig. 3 and column 6, lines 21 – column 7, lines 15).

Regarding **claim 25**, Eitzenberger discloses all the limitation, as discussed in claims 10 and 15.

Regarding **claim 26**, Eitzenberger teaches that polling a predetermined communication interface which is compatible with said first application (Fig. 1, 2, column 4, lines 57 – column 5, lines 20, and column 5, lines 48 – 65).

Regarding **claim 27**, Eitzenberger discloses all the limitation, as discussed in claims 1 and 8.

Regarding **claim 28**, Eitzenberger discloses all the limitation, as discussed in claims 1 and 9.

Regarding **claim 29**, Eitzenberger discloses all the limitation, as discussed in claims 10 and 19.

Regarding **claim 30**, Eitzenberger discloses all the limitation, as discussed in claims 4 and 21.

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Conclusion***

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231
Or P.O. Box 1450
Alexandria VA 22313

or faxed (571) 273-8300, (for formal communications intended for entry)

Or: (703) 308-6606 (for informal or draft communications, please label "PROPOSED" or "DRAFT").

Hand-delivered responses should be brought to USPTO Headquarters, Alexandria, VA.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **John J. Lee** whose telephone number is **(571) 272-7880**. He can normally be reached Monday-Thursday and alternate Fridays from 8:30am-5:00 pm. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, **Edward Urban**, can be reached on **(571) 272-7899**. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-4700.

J.L
July 18, 2007

John J Lee

Nguyen Vo
7-23-2007

NGUYEN T. VO
PRIMARY EXAMINER